IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.472 OF 2001.

Shri Tayarsha Mohmad Fakir : Appellant.

versus

The Collector, Sangli : Respondent.

Mr.T.S.Ingle for the appellant.

Mr.B.R.Pati, Acting Government Pleader, for State.

CORAM : D.G.DESHPANDE,J.

DATED : 15th March 2005.

ORAL ORDER

1. Heard advocate for the appellant and AGP for the State. This appeal is filed by the original claimant against the order of the Reference Court dismissing the Reference which was filed by the appellant for enhancement. 19 Gunthas of the land of the appellant was acquired. The SLAO awarded him compensation at the rate of Rs.45,000/- per hectare. The

claimant was claiming Rs.Two lacs and more per hectare. He could not adduce any evidence in the form of sale instance. Therefore, his reference came to be dismissed. Now during pendency of appeal, the claimant filed an application to permit him to adduce evidence. That application was allowed. The additional evidence that is sought to be tendered is in the form of two certified copies of Index II. However, these certified copies of Index II in themselves cannot be considered as sufficient to support the case of the claimant. He will have to examine either vendor or vendee of the respective sale transactions and will have to produce sale deeds and give oral evidence showing similarity between the acquired land and the land which are the subject matter of the sale deeds.

2. According to the appellant he could not get hold of these documents while the matter was pending before the Reference Court. Since the documents have been now produced, they do indicate that certain transactions took place in respect of the properties situated at Nandre, the village from which the land was acquired in the present case. Therefore, it will be proper to

remand the matter to the Reference Court to enable the claimant to lead oral evidence. The advocate for the claimant contended that the claimant will examine witnesses who are necessary for proving the sale transactions. Hence I pass the following order :-

:ORDER:

The impugned order is set aside.

Matter is remanded to the Reference Court who will record the evidence afresh that may be adduced by the claimant in support of the Index II.

The Reference Court will decide the matter within four months and pass proper orders from the receipt of this order.

It is clarified that if the claimant remains contending by merely producing certified copies of Index II, then the Court may pass an order as if there is no evidence on record.

The R & P to be sent back to the Reference Court.

The certified copies of Index II filed by the appellant to be sent along with the R & P.

Appeal is disposed of.

[D.G.DESHPANDE]

15/03/2005 JUDGE.